REMARKS

Claims 1 – 9 and 11 – 17 are pending and stand rejected for obviousness under 35 USC 103(a) in view of Fijolek (U.S. 6,223,222). Reconsideration of this rejection is respectfully requested in view of the following remarks.

In the Office Action dated May 12, 2004, the Examiner conceded that Fijolek does not make clear that a positive response is sent to an originating multimedia computing device but does teach that bandwidth is assigned to an originating device if it is available. In the Office Action of December 2, 2004, the Examiner contends that the assigning of bandwidth can be considered a positive response.

In the amendment dated August 12, 2004, the claims were amended with the feature of 'taking alternative action by the originating multimedia communications device upon receipt of a negative response'. This feature is not disclosed by Fijolek. Moreover, there is no suggestion in Fijolek of employing a call back feature, as set forth in claim 11.

The Examiner further stated that it is inherent that a request has either a positive or negative response and that Fijolek issues a positive response to a request by assigning bandwidth. The Examiner argues that it is further inherent that the originating multimedia computing device would respond differently (alternative action) when the response from the quality of service management component is negative instead of positive.

Applicant respectfully disagrees with the Examiner's interpretation of the disclosure of a "positive response" in Fijolek and that such "positive response" is inherent. Fijolek makes no suggestion that any response is 'positive'. For example, Fijolek shows at step 340 of figure 19 that the first network device assesses bandwidth availability on the second network device and either allocates bandwidth (the steps following "YES") or sends a rejection to the second network device (the NO decision

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from step 340). We agree that the **rejection** is equivalent of a **negative** response, but not a 'positive' response.

Thus, the Examiner's contention that it is inherent that the originating multimedia computing device (the second network device in Fijolek) would take "alternative action" when response from the first network device is a rejection is speculative at best. Applicant disagrees that "respond differently" equates with "taking alternative action". Indeed, a person of ordinary skill in the art would conclude from a reading of Fijolek that the second network device would simply display an error message to notify the user that no service is available. As previously explained, the recited "taking alternative action" is fully supported on page 9, lines 18-27 of the instant application, and include a host of alternatives such as initiating a call back when resources are available, camping on to the communications, or re-directing communications elsewhere. None of these alternatives are disclosed or remotely suggested in Fijolek. Accordingly, independent claims 1, 8 and 12 and claims dependent thereupon are believed to be patentably distinguished from Fijolek.

With respect to claim 11, the Examiner contends that the originating multimedia computing device of Fijolek would call back again when it wants to communicate with the destination multimedia computing device.

Applicant cannot find any reference in Fijolek of the second network device initiating a "call back .... when it wants to communicate with a destination multimedia computing device again." Further, claim 11 depends upon claim 8. Claim 11 includes the features of claim 8 which further distinguishes from Fijolek for the reasons stated above.

For the foregoing reasons, the above-identified application including claims 1-9 and 11-17 are patentable over Fijolek and is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully requested.

Respectfully submitted,

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